

DOCKET NO.: ISIS-2169
Application No.: 08/612,661
Notice of Allowance Dated: December 18, 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Leif Christensen, et al.

Confirmation No.: **7831**

Application No.: **08/612,661**

Group Art Unit: **1614**

Filing Date: **March 8, 1996**

Examiner: **Gregg Polansky**

For: **Substituted Nucleic Acid Mimics**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 CFR § 1.181

DETERMINATION OF PATENT TERM EXTENSION

Patent Owner respectfully petitions under 37 C.F.R. § 1.181 that the patent term be extended by the 1,825 days (5 years) due to a delay resulting from an interference-related suspension of prosecution by the Patent Office.

Utility patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension provisions of former 35 U.S.C. 154(b) and 37 CFR 1.701. *See*, MPEP § 2720. One reason for such extensions is delay caused by interference proceedings under 35 U.S.C. § 135(a). *See*, 37 C.F.R. § 1.701(a)(1) and MPEP § 2720. The length of the extension is determined by (i) the number of days between the declaration of an interference and the ending of the interference and (ii) the number of days that prosecution of the application is suspended due to an interference not involving the application. *See*, 37 C.F.R. § 1.701(c)(1). No reductions of days are associated with C.F.R. § 1.701(c)(1), only with C.F.R. § 1.701(c)(3). *See*, C.F.R. § 1.701(d). The maximum number of days of extension allowed under these provisions is 5 years. *See*, C.F.R. § 1.701(b) and MPEP § 2720 (reciting former 35 U.S.C. 154).

The instant application was filed on March 8, 1996. Because the application was filed after June 8, 1995 and before May 29, 2000, an extension of patent term under the provisions discussed above is proper.

The prosecution of the instant application delayed for over well over five years due to suspension of prosecution related to a potential interference and such delay falls with the scope of C.F.R. § 1.701(c)(1). On June 5, 2001 the Patent Office mailed a Letter of Suspension which indicated that all claims were allowable but that prosecution on the merits was suspended pending resolution of a potential interference. On December 18, 2009, a Notice of Allowability with Examiner's comments was mailed. The Notice states that "[p]rosecution had previously been suspended to investigate potential interference. After further consideration the Examiner has determined that an interference does not appear to exist. As such, prosecution is **resumed**" (emphasis in original). Based on the dates discussed above the delay associated with the suspension of prosecution was 3,116 days.

Patent Owner therefore respectfully requests that a patent term extension of 1,825 days (5 years), based on the maximum allowable extension, be granted for this application.

Although Patent Owner believes no additional fees are due, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 23-3050.

Respectfully submitted,

Date: February 17, 2010

/John A. Harrelson, Jr./

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